

**BEFORE THE FLORIDA
JUDICIAL QUALIFICATIONS COMMISSION**

**INQUIRY CONCERNING A
JUDGE, NO. 01-244**

CASE NO.: SC01-2670

ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW the Respondent and files this answer and affirmative defenses pursuant to the Florida Judicial Qualifications Commission Rules (hereafter “FJQCR”) which pursuant to Rule 12(a) adopts the *Florida Rules of Civil Procedure* except where inappropriate or as otherwise provided and in support thereof would state as follows:

1. The Respondent denies paragraphs 1 through 28 in Counts I through VI of the Amended Notice of Formal Proceedings except in the following:

Paragraph 12 – admitted.

AFFIRMATIVE DEFENSES

1. Respondent asserts that the Amended Notice of Formal Proceedings fails to state a cause of action as to each count alleged.
2. Respondent asserts that the Amended Notice of Formal Proceedings fails to specify in ordinary and concise language the charges

against the Respondent and fails to allege essential facts upon which the charges are based.

3. Respondent asserts that the Commission lacks jurisdiction over the subject matter of the allegations contained in Counts III and VI of the Amended Notice of Formal Proceeding.

Respectfully submitted,

ROBERT W. MERKLE, ESQ.

Florida Bar Number: 138183

MERKLE & MAGRI, P.A.

5510 West LaSalle Street

Tampa, Florida 33607

Telephone: (813) 281-9000

Facsimile: (813) 281-2223

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and certified mail to: **Judge James R. Jorgenson**, Chair of the Judicial Qualifications Commission Hearing Panel, 3^d District Court of Appeal, 2001 S.W. 117th Avenue, Miami, Florida 33175-1716; **John Beranek, Esq.**, Counsel to the Hearing Panel of the Judicial Qualifications Commission, P.O. Box 391, Tallahassee, Florida 32302; **John S. Mills, Esq.**, Special Counsel, Foley & Laudner, 200 Laura Street, Jacksonville, Florida 32201-0240; **Brooke S. Kennerly**, Executive Director of the Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; **Thomas C. MacDonald, Jr., Esq.**, General Counsel to the Investigative Panel of the Judicial Qualifications Commission, 100 North Tampa Street, Suite 2100, Tampa, Florida 33602, **Louis Kwall, Esq.**, Co-Counsel for Respondent, 133 North Ft. Harrison Avenue, Clearwater, Florida 33755; this 11th day of January, 2002.

ROBERT W. MERKLE, ESQ.